MONTANA LEGISLATIVE HISTORY

Chapter 152 1981

Bill H _____ S 178 Original bill & history X C

H. Committee on Bus. + Ind.

Hearing Date(s) 3/6 X C

_____ ____C

_____ ____C

_____ ____C

Date Out _____ ____C

S. Committee on State Adm.

Hearing Date(s) 1/26 X C

_____ ____C

_____ ____C

_____ ____C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

Senate BILL NO. 178

INTRODUCED BY Eve Kolstad

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 16-3-306, MCA, TO PROVIDE AN ADDITIONAL EXCEPTION TO THE RESTRICTION LIMITING PROXIMITY OF RETAIL LIQUOR LICENSEES TO SCHOOLS AND PLACES OF WORSHIP."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 16-3-306, MCA, is amended to read:

"16-3-306. Proximity to churches and schools restricted. (1) A retail licensee may not extend or relocate his premises within 600 feet of and on the same street as a building used exclusively as a church, synagogue, or other place of worship or as a school other than a commercially operated or postsecondary school. This distance shall be measured in a straight line from the center of the nearest entrance of the place of worship or school to the nearest entrance of the licensee's premises. This section is a limitation upon the department's licensing authority.

(2) However, the department may renew a license for any establishment located in violation of this section if the establishment:

(a) was ~~either~~ located on the site before the place of worship or school opened; ~~or~~

(b) was located in a bona fide hotel, restaurant, or fraternal organization building at the site since January 1, 1937; or

(c) obtains the written approval of the place of worship or school to sell alcoholic beverages in closer proximity than is allowed under subsection (1)."

-End-

INTRODUCED BILL
SB 178

TRANSMITTED TO GOVERNOR: 4/6/81
ACTION: 4/8, SIGNED
CHAPTER 295

SB 176 -- STIMATZ -- GENERALLY REVISING GROUNDWATER APPROPRIATION AND PERMIT PROVISIONS.
INTRODUCED AND REFERRED TO COMMITTEE ON AGRICULTURE: 1/17
HEARING: 1/28
REPORT: 2/2, DO PASS AS AMENDED
2ND READING: 2/4, YEAS: 46; NAYS: 4
3RD READING: 2/6, YEAS: 47; NAYS: 0

TRANSMITTED TO HOUSE: 2/6
REFERRED TO SELECT COMMITTEE ON WATER: 2/7
HEARING: 2/19
HEARING: 3/10
REPORT: 3/24, BE CONCURRED IN, AS AMENDED
2ND READING: 3/28, YEAS: 63; NAYS: 4
3RD READING: 3/31, YEAS: 91; NAYS: 1

RETURNED TO SENATE WITH AMENDMENTS: 3/31
2ND READING: 4/3, BE CONCURRED IN
3RD READING: 4/6, YEAS: 49; NAYS: 0

TRANSMITTED TO GOVERNOR: 4/10/81
ACTION: 4/14, SIGNED
CHAPTER 357

SB 177 -- LEE, MANUEL -- PROVIDING FOR FIRE PROTECTION SERVICES IN RURAL AREAS.
INTRODUCED AND REFERRED TO COMMITTEE ON LOCAL GOVERNMENT: 1/1
HEARING: 1/29; 2/14
REPORT: 2/21, ADVERSE REPORT ADOPTED -- YEAS: 42; NAYS:
-- KILLED

SB 178 -- LEE, MANUEL -- AMENDING 16-3-306 TO PREVENT THE LICENSING OF CERTAIN BUSINESSES SELLING ALCOHOL IN CLOSE PROXIMITY TO SCHOOLS AND CHURCHES.....
INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION: 1/19
HEARING: 1/26
REPORT: 1/29, DO PASS AS AMENDED
2ND READING: 1/31, YEAS: 44; NAYS: 5
3RD READING: 2/3, YEAS: 44; NAYS: 3

TRANSMITTED TO HOUSE: 2/3
REFERRED TO COMMITTEE ON BUSINESS AND INDUSTRY: 2/4
HEARING: 3/6
REPORT: 3/9, BE CONCURRED IN, AS AMENDED
2ND READING: 3/12, YEAS: 79; NAYS: 12
3RD READING: 3/14, YEAS: 87; NAYS: 5

RETURNED TO SENATE WITH AMENDMENTS: 3/14
2ND READING: 3/18, BE CONCURRED IN
3RD READING: 3/20, YEAS: 48; NAYS: 0

TRANSMITTED TO GOVERNOR: 3/25/81
ACTION: 3/26, SIGNED
CHAPTER 152

47th LEGISLATIVE SESSION

COMMITTEE ON State Administration

SENATE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
99	1/12	1/22; 1/27			1/27				
Senate 100	1/12	1/22; 1/27		1/27					
104	1/12	1/15; 1/19			1/19				
105	1/12	1/15; 1/19				1/19			
109	1/13	1/27				2/20			
113	1/13	1/21		1/21					
114	1/13	1/20; 1/21			1/21				
135	1/15	1/23; 1/27				1/27			
142	1/15	1/20; 1/21		1/21					
155	1/16	1/30; 2/4				2/4			
178	1/19	1/26; 1/27				1/27			
181	1/19	1/30; 2/10				2/10			
184	1/19	2/5; 2/10		2/10					
187	1/19	1/26		1/27					
189	1/19	1/29; 2/3			2/3				
190	1/19	1/29; 2/3			2/3				
194	1/19	1/28; 2/3			2/3				

Use a separate sheet for Senate, House Bills, and Resolutions.

Senator Hafferman asked Mr. Trevor if they would be microfilmed. The answer was no.

Senator Ryan asked if it would include records stored in computers. Answer: Yes.

In closing this bill, Senator Graham asked to move to have it pass.

Senator Story asked Senator Graham to work with the staff man, John Hollow, for a statement of intent. John Northey volunteered his services for this item.

CONSIDERATION OF SENATE BILL NO. 178:

AN ACT TO PROVIDE AN ADDITIONAL EXCEPTION TO THE RESTRICTION LIMITING PROXIMITY OF RETAIL LIQUOR LICENSEES SCHOOLS AND PLACES OF WORSHIP.

Senator Gary Lee, District 17, Fort Shaw, sponsored this bill and submitted amendments. He said that this is a minor housekeeping bill that would provide changes in the bill.

PROPONENTS:

Cindy Price, from the Missoula County Tavern Assn., gave an example of a bowling alley, established before a church moved into the neighborhood that underwent some remodeling. That was in violation of the 600 feet limit. She stated there is a rapid proliferation of private schools and groups being termed "churches", affecting many more people than those of which she is speaking.

Bob Durkee, from the Montana Tavern Assn., supported the bill but indicated he has not had an opportunity to review the amendments. He advised putting it into a subcommittee because there is a House Bill #138 being heard tomorrow. He felt there is a language problem with this bill.

OPPONENTS: None.

Questions from the Committee: Senator Towe asked Senator Lee if he contemplates consent by the school board. Senator Lee said this leaves it open - up to the Department of Revenue, school, and/or bar owner. He stated this bill keeps it simple and keeps down the red tape.

Senator Towe asked Senator Lee if he saw a problem with the amendment. Senator Lee answered by saying prior to 1975.

there was a difference between bar and beer. The original intention of 600 feet under the present law was that people coming out of church could not see the drunks. He claimed this bill is not to affect retail sales from stores.

Senator Towe asked if he meant 600 feet of their own property. Senator Lee answered that the subsections 2 and 3 apply.

Senator Ryan asked Senator Lee if there would be a retroactive provision. He answered no. They might change their mind but are willing to stand by their decision.

Senator Ryan asked, "If they decide to remove their stamp of approval, do you envision any problems, Senator Lee?" Senator Lee answered that it would be up to the courts, but he sees no problem.

Senator Story clarified the fact that under the present law if a bar is set up and a church moves in, it is okay. But if a bar moves in or makes changes, that would create a problem.

Senator Lee stated that now the church does not have the opportunity to waive its rights.

Senator Towe mentioned that in the 1975 session there was an attempt to remove the requirements altogether. The committee voted down the request. There is some support for this kind of limitation.

In closing, Senator Lee asked the committee to consider the amendments and the bill and recommended them to pass it.

Senator Hafferman asked how this distance is measured. Senator Towe stated from door to door.

Leon Messerly, from the State Tax Appeal Board, stated that if the property boundaries are within 600 feet, that is measured from entrance to entrance. The same store can be measured with property boundaries. He had a map of Billings to cite examples to the committee.

The hearing was closed on the bill.

Senator Story announced there would be an executive meeting Tuesday, January 27, plus the hearing of his S. B. 109.

ADJOURNMENT: 10:40

SENATOR PETE STORY, CHAIRMAN

ROLL CALL

STATE ADMINISTRATION COMMITTEE

47th LEGISLATIVE SESSION - - 1981 Date 1-26-8

NAME	PRESENT	ABSENT	EXCUSED
Senator Pete Story, Chairman	✓		
Senator Allen Kolstad, V. C.		✓	
Senator William Hafferman	✓		
Senator H. W. Hammond	✓		
Senator Jan Johnson	✓		
Senator Patrick Ryan	✓		
Senator Thomas Towe	✓		

Each day attach to minutes.

1-26

MR. CHAIRMAN, I MOVE TO AMEND SENATE BILL 178 AS FOLLOWS:

1. Title, line 5.
Following: "PROVIDE"
Strike: "AN"
Following: "ADDITIONAL"
Strike: "EXCEPTION"
Insert: "EXCEPTIONS"

2. Page 1, line 12.
Following: "(1)"
Strike: "A"
Insert: "Except as provided in subsections (2) and (3) a"

3. Page 1, line 22.
Following: "of"
Strike: "this section"
Insert: "the 600 foot restrictions of subsection (1)"

4. Page 2, lines 4 through 6.
Strike: subsection (c) in its entirety.
Insert: "(c) has been licensed pursuant to a consent obtained under the provision of subsection (3)(b).

(3) The 600 foot restrictions of subsection (1) do not apply to:

(a) licenses for the sale of beer, table wine, or both in the original package for off-premises consumption only; or

(b) any other alcoholic beverage license when the applicant or licensee has obtained written consent to waiver of the 600 foot restrictions from all places of worship and schools located within the 600 foot limits of subsection (1)."

COMMITTEE ON _____ BILL NO. SB 178

VISITOR'S REGISTER

NAME	REPRESENTING	Check One: Support	Oppose
Phil Strope	Mont Tavern Assn	✓	
Ed Dittus	Mont Tavern Assn	✓	
LEON MESSERLY	LIQUOR DIVISION		
Jan Brown	Mt Assn of Churches		
Leigh Kirkpatrick	Sen. Tom Towe	—	
Dee Hermes	"	—	
John W. Mudd Jr.	Legislative Auditor	✓	

(Please leave prepared statement with Secretary)

#38

HOUSE BUSINESS AND INDUSTRY

March 6, 1981

SUMMARY OF BILLS TO BE HEARD TODAY -

SENATE BILL 106 -

Introduced by Sens. Himsl and Galt, amends the current law to broaden the powers of trustees by add demand time savings accounts and time certificates of deposit in any bank as allowable investments.

SENATE BILL 178 -

Introduced by Sens. Lee and Kolstad, allows additional exceptions to the minimum distance requirement of 600 feet from a church or school to a place of business licensed to sell liquor at retail. The license may be renewed under the currect law if the establishment was located on the site before the school or church opened, was located in a bona fide hotel, restaurant, or fraternal organization building at the site since January 1, 1937. This bill provides that a business may renew a license if the school or church gives written approval, and the bill provides that the distance limit does not apply to licenses for the sale of beer or table wine for off-premises consumption.

SENATE BILL 233 -

Introduced by Sen. Hofferman and others, revises the Montana Consumer Loan Act concerning receipts given to a consumer loan borrower to allow for the use of mechanical data processing equipment. The bill requires a receipt be given for every payment made in cash and allows the Department of Business Regulation to approve any mechanical data processing system that contains information equivalent to that required on a loan ledger or card endorsed manually under the current system.

HOUSE BUSINESS AND INDUSTRY

The committee was called to order by Chairman Rep. W. J. Fabrega March 6, 1981, in room 129, Capitol Building, Helena, at 8:00 a.m. Rep. Ellison was excused; other members were present most of the time. Bills to be heard were SB 106, 233, 178.

SENATE BILL 106 -

SENATOR MATT HIMSL, District 9, Kalispell, said SB 106 would amend current law to allow a bank with a trust department to invest trust funds, including investments in demand time savings accounts and time certificates of deposit, in any bank, including a bank operated by the trustee. See EXHIBIT A.

The banks accumulate $10,000 in trust accounts, and then put that money into money market certificates which are hooked to the money market rates. The trust department sees no reason why the department should have to do this outside their parent bank. If Montana would put this into the statutes, the comptroller would have no problem.

OPPONENTS: None

QUESTIONS -

Rep. Fabrega advised a distinction is made when funds are invested for a period longer than six months; it is then called an investment. Many trusts are for widows whose accounts accumulate up to $10,000. They always want the best security and earnings, so the trust department puts their money in money market certificates which are hooked to the money market rates. When they are renewed the second year, they say that becomes an investment.

Rep. Himsl closed saying the subject had been well covered.

SENATE BILL 178 -

SENATOR GARY LEE, District 17, Cascade County, chief sponsor of SB 178, allows for exemptions in the 600 foot proximity law wherein taverns have to be 600 feet from schools and churches. The present law applies to new construction or remodeling. SB 178 would allow taverns that are remodeling who already own enough property upon which they can expand to operate within the 600 foot rule. Rep. Ellerd's House Bill 138 is very similar. It allows for remodeling in a building to come within the 600 foot rule. Two such cases are involved in this problem at the present time. If an existing building is remodeled, they will still be able to continue their business if SB 178 is adopted. If both HB 138 and SB 178 were passed, they could not be combined by codification satisfactorily.

PHIL STROPE, Montana Tavern Association, Helena, endorses SB 178, as they also did HB 138 which came out of the State Administration Committee. He recommended amending Rep. Ellerd's bill into this one because it might present a problem with respect to an effective date. They are

not the same, and you might amend out the very language you will put in. He suggested meshing both bills. Rep. Ellerd graciously agreed this was acceptable to him as long as the problem was solved.

ROGER TIPPY explained that a research project which combined 3 separate liquor statutes done in 1975 combining them ended up to be a very large bill. This provision was overlooked and not included. By adding subsection (c), the Senate restored that distinction to the code.

BOB DURKEE, Montana Tavern Association, Helena, supports SB 178.

CINDY PRICE, Missoula Co. Tavern Association, supports SB 178.

OPPONENTS: None

QUESTIONS -

Rep. Ellered said he just wanted, one way or another, to eliminate this problem. Phil Strope whose testimony is attached, said Lois Menzie had rephrased the language which became Rep. Ellerd's HB 138, and most of that is in SB 178. Her language could be put into SB 178 and contain all the provisions of both bills.

Sen. Lee requested that an immediate effective date be added. A store in Billings and another in Ronan are under construction at the present time, and will be in violation if this bill doesn't pass. Prior to 1975, this was the law - package stores were not subject to the 600 foot rule at that time. The 600 foot rule was established to provide a reasonable separation between school and churches and taverns. By having permission from either a school or church, a tavern could remodel and be closer than the allowed 600 feet.

SENATE BILL 233 -

SENATOR BILL HAFFERMAN, District 11, Lincoln County, sponsored SB 233 at the request of the Department of Business Regulation. The bill was proposed by members of the consumer loan industry to allow the use of data processing equipment where payment is made in cash. A receipt must be given the borrower immediately upon payment. The borrower will still get a periodic statement showing payments and balances. SB 233 just allows the use of mechanical processing of receipts upon written approval of the department.

BOB WOOD, Department of Business Regulation, was present to answer questions.

There were no opponents, and no questions were asked. Senator Hafferman felt no need to close.

EXECUTIVE SESSION -

SENATE BILL 233 -

REP. MANNING moved SB 233 be concurred in. Motion carried unanimously with three members absent - Reps. Vincent, Ellison, O'Hara.

SENATE BILL 106 -

REP. WALLIN moved SB 106 be concurred in. Motion carried unanimously - three members absent.

SENATE BILL 178 -

SB 178 was further discussed - Mr. Strope said the department wants subsection (c), page 2, in there so they can go to a school or church and get their opinion. Rep. Ellerd raised the question about the situation if a church builds within 600 feet of an existing tavern. It appears that existing law says no tavern may move within 600 feet of a church or school, but a church or school could be constructed within 600 feet of the tavern, and then the tavern would be in violation of the 600 foot rule.

Subsection (c) was added because if it weren't, grocery stores would also be violating the law. The department wanted language saying that a tavern could remodel and be closer than 600 feet if they had the permission of the school or church in that close proximity.

Rep. Andreason felt there was a possibility of destroying the distance factor and could, in essence, allow a tavern to be located next to a school or church. Strope explained subsection (c) is an isolated license allowing only already existing licensees to remodel in such a manner.

An amendment would allow an immediate effective date. Paul Verdon, committee researcher and Phil Strope were to work out amendments incorporating HB 138 into SB 178, and adding an immediate effective date.

SENATE BILL 338 -

REP. MANNING moved SB 338 be removed from tabling. Motion carried unanimously. He then moved SB 338 be concurred in, which was unanimously adopted. Reps. Vincent and Ellison were absent.

The meeting adjourned at 9:00 a.m.

Wednesday June Vice Chairman
REP. W. J. FABREGA, Chairman

Jo Lahti
Jo Lahti, Secretary

#38

VISITORS' REGISTER

HOUSE Bus & Ind. COMMITTEE

BILL SB178 Date 3/6

SPONSOR Zinc

NAME	RESIDENCE	REPRESENTING	SUP-PORT	OP-POSE
Cindy Price	Helena	Mont. Power Assoc	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Form CS-33
1-81

#38

NAME Bob Durkee BILL No. SB 178

ADDRESS _____ DATE _____

WHOM DO YOU REPRESENT MTA

SUPPORT _____ OPPOSE _____ AMEND X

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

FORM CS-34
1-81

#38

NAME PHIL STROPE BILL No. SB 178

ADDRESS HELENA DATE 3-6-81

WHOM DO YOU REPRESENT MONT TAVERN ASS

SUPPORT ✓ OPPOSE AMEND ✓

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

SB 178 AMENDS 16-3-306 BY ADDING NEW MATERIAL.

HB 158 (ELLIOT) AMENDS 16-5-306 BY DESIGNATING THE SECTION. THE SENATE JUDICIARY COMMITTEE WILL GIVE HB158 AN APPROPRIATE EFFECTIVE DATE.

THE TWO BILLS SHOULD BE COMBINED TO AVOID CODIFICATION DIFFICULTY. LOIS MENZIE, LEGISLATIVE COUNCIL KNOWS HB158 BECAUSE SHE DID ESTATE AD COMMITTEE AMENDMENTS TO HB158.

FORM CS-34
1-81

Amendments to Senate Bill 178.

1. Title, line 7.
Following: "WORSHIP"
Insert: "AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

2. Page 1, line 13.
Following: "(3),"
Strike: "A"
Insert: "no"
Following: "retail"
Strike: "licensee"
Insert: "license"
Following: "may"
Strike: the remainder of line 13.
Insert: "be issued pursuant to this code to any business or enterprise whose"

3. Page 1, line 14.
Following: "premises"
Insert: "are"

4. Page 1, line 23.
Following: "section"
Insert: ", provided the licensee does not relocate his premises to a noncontiguous site or relocate his entrances any closer than the existing entrances,"

5. Page 2.
Following: line 10.
Insert: "Section 2. Effective date. This act is effective on passage and approval."

EXECUTIVE SESSION -

Rep. Harper moved amendments as proposed be amended. Motion carried unanimously. Rep. Bergene moved further amendments as proposed be adopted and they were by all those present. Reps. Ellerd, Jacobsen, Meyer, and Andreason were absent. Rep. Harper moved further amendments on page 2, line 4 and (c) be deleted in its entirety. Unanimous concurrence. Rep. Manning moved SENATE BILL 178 BE CONCURRED IN AS AMENDED. Motion carried unanimously by those present. The same four representatives were absent. Adopted amendments may be found in the standing committee report dated March 9, 1981.

Rep. Kitselman moved SENATE BILL 151 BE CONCURRED IN. Motion carried unanimously with 3 members absent.

Rep. Kessler moved SENATE BILL 211 BE CONCURRED IN. Motion passed unanimously with 3 members absent.

SB 239 and SB 241 were further discussed. Rep. Fabrega thought a statement of intent could accompany a payment schedule for a policy to clarify SB 239. SB 241 statement of intent could say something that the intent is that the commissioner may not set standards lower than the NAIC requirements, if this will not jeopardize Montana's chance of getting under federal regulations. The concern is if there is flexibility that there be policies of lesser benefits offered to senior citizens.

Rep. Kitselman thought the $50 premium would be too costly for senior citizens. That would make this particular supplement cost $250-$350 per year. Because of time constraints he would suggest compliance with the Baucus Amendment be addressed in 2 years.

Rep. Fabrega said the only problem that appears is that the NAIC has not yet defined requirements. If insurance is available at $16-25 per month and that schedule is higher and provided an option, it would have to be backed by the regulation. We want to make sure that we don't put our right to determine the type of policy in jeopardy.

Rep. Harper recommended amendments be made to the bill because statemer of intent might be discontinued in the future.

Rep. Fabrega asked Paul Verdon, the researcher to clean up the language on page 7, lines 15 - 17 for SB 239.

Rep. Manning moved SENATE BILL 261 BE CONCURRED IN. Motion carried unanimously with Reps. Andreason, Meyer, Ellerd absent. This bill allows bank officers to write policies and receive the premiums, and the premiums will have to be paid to the bank for the benefit of stockholders. This is a Comptroller of Currency regulation. National banks can already do this and state banks want parity.

Meeting adjourned at 11:15 a.m.

REP. W. J. FABREGA, Chairman

Jo Lahti, Secretary